

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

TONY D. RILEY,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:16-CV-49
(GROH)**

**JENNIFER SAAD, Warden;
DUNN, Associate Warden;
RAMOS, Associate Warden for
Medical or Health Service;
T. KOCH, RN, BSN, CCHP, Assistant
Health Services Administrator;
D. YOUNG, Counselor; BOWEL
BALL, Medical Administrator;**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation ("R&R") of United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed R&R. Magistrate Judge Seibert issued his R&R [ECF No. 77] on March 20, 2017. In the R&R, he recommends that the Defendant's complaint [ECF No. 1] be denied and dismissed with prejudice. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Plaintiffs right to appeal

this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

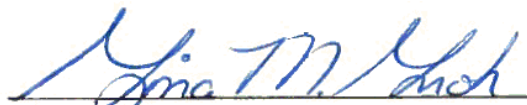
Objections to Magistrate Judge Seibert's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the pro se Plaintiff at address in Syracuse, New York, on March 23, 2017. ECF No. 81. Therefore, after allowing for additional time for transit in the mail, the Court finds that the deadline for the Plaintiff to submit objections to the R&R has passed. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Seibert's Report and Recommendation [ECF No. 77] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein.

Accordingly, the Court **GRANTS** the Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment. ECF No. 55. The Plaintiff's Complaint [ECF No. 1] is **DENIED** and **DISMISSED WITH PREJUDICE**. This matter is **ORDERED STRICKEN** from the Court's active docket.

The Clerk is **DIRECTED** to enter judgment for the Defendants. The Clerk is further **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet and to transmit copies of this Order to all counsel of record.

DATED: April 28, 2017


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE